

REMARKS

Responsive to the office action mailed February 3, 2010, Applicant respectfully traverses the requirement for restriction and provisionally elects claims 1-10 and 16-36 in Group A directed to the embodiment in figure 2.

Applicant notes that the embodiment of Figure 3 differs from that of Figure 2 by the blastholes not extending into the lower seam of coal. The embodiment of Figure 5 differs from that of Figure 2 by the overburden at the front of the second body being blasted first to form a buffer 36 for the first body of material. Claims 1-10 and 16-36 read on the embodiments of Figures 2, 3, and 5.

The basis of the Examiner's restriction requirement is that claim 1 does not include a special technical feature in view of WO02/057707. Applicant disagrees. Claim 1 is directed to a method of blasting plural layers of material in an open cut mining blast field including a first body of material and a second body of material over the first body of material. The blasting method comprises a single cycle of drilling, loading with explosives and firing blastholes, of which at least some extend through the second body into the first body, such that the first body is subjected to a stand-up blast and the second body (over the first body) is subjected to a throw blast in that single cycle. These features are not disclosed or suggested by WO02/057707.

Rather, WO02/057707 is directed to a method of blasting that controls the rockpile (muckpile) profile associated with a blast (page 1, lines 3-6). The rockpiles of material is thrown (or displaced) by the blast (page 1, lines 8-9). WO02/057707 states that it is possible to control the magnitude of displacement of the rockpile in a particular direction and in selected zones of the blast to achieve a desired rockpile profile. Thus, the profile may be flattened or displaced forwards in certain areas or, alternatively, made to heave upwards or be minimally displaced in other areas to suit the mine excavation system (page 2, lines 27-31). WO02/057707 does not disclose or suggest a throw blast in a second body of material that is over a first body of material that is subject to a stand-up blast.

WO02/057707 discloses the use of two or more initiators (detonators) in each blasthole, but this is clearly in relation to increasing the rockpile displacement (for example, see claims 11 and 19 of the reference), and therefore only for a throw blast, not a throw blast over a stand-up blast.

The throw blast over a stand-up blast in a single cycle of drilling, loading and firing in open cut mining for recoverable material, as recited in claim 1, is a major distinction of the present

invention over all known prior art. It provides the advantage, in the single cycle, of throwing at least a substantial part of the second body of material onto the muckpile and heaving recoverable mineral, or other material of the first body, beneath the second body so as to facilitate recovery of the mineral.

This indeed is a special technical feature, as defined by PCT Rule 13, that is common to all of the species identified by the Examiner, and it is for this reason that no other Patent Office, including the PCT authorities, has raised a lack of unity objection within claims 1-36.

Furthermore, WO02/057707 does not disclose or suggest "loading the blastholes with explosives so that for at least some of the blastholes a respective deck of explosives is provided in each of the first and second bodies of material," as recited in amended claim 1.

Because claim 1 does include a special technical feature in view of WO02/057707, and claims 2-36 all depend from claim 1, Applicant respectfully requests that the Examiner withdraw the restriction requirement.

New claims 69 and 70 read on the embodiments of Figures 2 to 5, whereas claim 71 reads on the embodiments of Figures 2, 3 and 5. Claims 69-71 include the amendment to claim 1 and are distinguished over WO02/057707 for at least similar reasons as those applied to claim 1.

The excess claim fees in the amount of \$220 and Petition for Five-Month Extension of Time fee in the amount of \$2350 are being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply all charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 20996-002US1.

Respectfully submitted,

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